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GREENBERG TRAURIG LLP  
2450 COLORADO AVENUE, SUITE 400E  
SANTA MONICA CA 90404

JUN 13 2003

DIRECTOR OFFICE  
TECHNOLOGY CENTER 2100

In re Application of: Hovsepian )

Application No. 10/054,361 )

Attorney Docket No. 21454-15 )

Filed: January 17, 2002 )

For: SYSTEM AND METHOD OF )

MANAGING PRE-PAID ELECTRONIC )

ACCESS TO GOODS, SERVICES AND )

OTHER CONTENT )

DECISION ON PETITION TO MAKE  
SPECIAL UNDER 37 CFR §1.102(d) –  
ACCELERATED EXAMINATION

This is a decision on the petition, filed April 2, 2003 under 37 CFR §1.102(d), in accordance with MPEP 708.02(VIII), requesting the Accelerated Examination of the above-identified application.

The petition is **DISMISSED**.

MPEP § 708.02, Section VIII, sets out the prerequisites to be met by applicant for a grantable petition for Accelerated Examination under 37 CFR §1.102(d), as follows:

(A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);

(B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status.

The election may be made by applicant at the time of filing the petition for special status. Should applicant fail to include an election with the original papers or petition and the Office determines that a requirement should be made, the established telephone restriction practice will be followed.

If otherwise proper, examination on the merits will proceed on claims drawn to the elected invention.

If applicant refuses to make an election without traverse, the application will not be further examined at that time. The petition will be denied on the ground that the claims are not directed to a single invention, and the application will await action in its regular turn.

Divisional applications directed to the nonelected inventions will not automatically be given special status based on papers filed with the petition in the parent application. Each such application must meet on its own all requirements for the new special status;

(C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;

- (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Petitioner submits one copy of each of the references most closely related to the subject matter encompassed by the claims and submits a statement that a search has been made and provides a list of the field of search by class and subclass. Therefore, the petition complies with items (C) and (D) of the items mentioned above. Applicant submits a fee under 37 CFR 1.17(i), instead of 37 CFR 1.17(h). However, since the fee is the same in both cases, it has been accepted as having been filed under 37 CFR 1.17(h). Therefore, the petition complies with item (A) mentioned above. However, the petition is deficient with respect to items (B) and (E) above:

(B) Applicant states that all the claims are directed to a single invention. Since there are several independent claims, each having a different scope, it will be up to the examiner to make such a determination. Applicant has made no provision for the possibility of a restriction requirement by the examiner. Applicant must provide the following statement as a prerequisite to a grant of special status: "If the Office determines that all claims presented are not obviously directed to a single invention, applicant will make an election without traverse and will follow established telephone restriction practice to make such an election if requested to do so."

(E) Applicant has failed to provide a detailed discussion that points out, with the particularity required by 37 CFR 1.111(b) and (c), how the claimed subject matter is patentable over the references. For each of the first two references cited, applicant uses less than two lines to briefly describe the field of endeavor of each reference, followed by a paraphrase of claim 1. This does not meet the requirements of 37 CFR 1.111(b) and (c).

Therefore, the Petition is **DISMISSED**. The application file will be forwarded to the Central Files of Technology Center 2100 to await examination in its proper turn based on its effective filing date. Petitioner is entitled to one opportunity to perfect the request in a renewed petition to make special. Any request for reconsideration must be filed within TWO MONTHS of the mailing date of this decision.



Vincent Trans  
Special Programs Examiner  
Technology Center 2100  
Computer Architecture, Software, and  
Information Security  
(703) 305-9750